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RUEHBJ/AMEMBASSY BEIJING 4241
RUEHKO/AMEMBASSY TOKYO 9273
RUEHUL/AMEMBASSY SEOUL 3124
RUEHCHI/AMCONSUL CHIANG MAI 3572
RHEFDIA/DIA WASHDC
RUEAIIA/CIA WASHINGTON DC
RHEHNSC/NSC WASHDC
RUEKJCS/JCS WASHDC
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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 002956

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TAGS: PGOV PHUM KDEM KJUS ASEC TH

SUBJECT: THAILAND'S UPCOMING PARTY DISSOLUTION RULINGS

REF: A. BANGKOK 2304 (DEMOCRAT OFFICIAL'S VIEWS)
1B. 06 BANGKOK 1301 (SNAP ELECTION)

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Classified By: Ambassador Ralph L. Boyce, reason 1.4 (b) and (d).

SUMMARY

11. (C) The Constitution Tribunal on May 30 will announce its decision in cases involving alleged "undemocratic acts" committed in 2006 by Thailand's two largest political parties. The Tribunal has the authority to dissolve the parties and may ban their executive board members from politics. Imposing this penalty would deprive many traditional power brokers from holding a stake in the political system to be established by the next constitution; it could motivate these people to derail constitutional and electoral processes, either through fomenting disorder, campaigning for the draft constitution's rejection in the upcoming referendum, or boycotting the next election. If the Tribunal spares the parties' executives from sanction, though, the coup leaders will lose face and may fear that deposed Prime Minister Thaksin's allies will seek a quick return to power. In ambiguous remarks, King Bhumibol has warned of instability and distanced the monarchy from the Tribunal's ruling, but he did not indicate his preferred outcome. Septel will report the Embassy's core Emergency Action Committee discussion of security conditions. End Summary.

BACKGROUND

12. (U) Months prior to the September 2006 coup d'etat, the Office of the Attorney General filed charges against both the Thai Rak Thai Party and the Democrat Party for "undemocratic acts" in connection with April 2006 elections (which were subsequently annulled by the courts). Specifically, Thaksin Shinawatra's Thai Rak Thai (TRT) was charged with funding small parties to provide straw man competition in certain electoral districts. (Ref B explained why this was in TRT's interest.) The Democrat Party was alleged to have obstructed candidates' registration, defamed TRT, influenced the actions of other parties, and advocated the undemocratic overthrow of

the Thaksin administration.

¶13. (U) Days after the coup leaders seized power, they issued a legally binding announcement covering, among other matters, the dissolution of political parties for violations of the Political Party Law. This announcement stated that, if a party is ordered dissolved, the members of its executive board shall lose their voting rights for a period of five years. (Losing one's voting rights also entails ineligibility for elected office.) The language in this announcement appears inflexible. Shortly thereafter, the authorities promulgated the interim constitution, which established a Constitutional Tribunal, to take over all affairs of the Constitutional Court, which had been processing the cases against the parties.

¶14. (U) The media has reported extensively on the Tribunal proceedings -- although not so extensively as to allow an independent assessment of the merits of these cases. Some witnesses recanted earlier claims of illicit TRT activities; during Tribunal proceedings, they claimed to have been intimidated by a top Democrat Party official into defaming TRT. Meanwhile, without admitting improprieties, TRT claimed that principal suspects in the funding scandal lacked the capacity to act on behalf of the party.

A FAIR RULING?

¶15. (C) Few observers seem to believe that the Tribunal will decide these cases on the merits, however. To illustrate: pundits repeatedly claim that, if TRT is to be dissolved, the Tribunal must show "balance" by dissolving the DP as well. One daily paper recently quoted an anonymous Tribunal member as stating "We will take everything into account: the principles of law and political science, as well as the

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spirit of the (coup council)." The Ambassador's interlocutors on or close to the Council for National Security (CNS) have for months assured him of TRT's dissolution, as if it has been preordained. And one top Democrat Party official relayed specific rumors of substantial bribe money sloshing toward the Tribunal members (ref A).

DISSOLUTION AS A SANCTION

¶16. (SBU) Our contacts have told us that, if dissolved, both TRT and the DP would be free to reconstitute themselves, even using their prior names and symbols. Under the pre-coup legal regime, the only sanction associated with dissolution was a prohibition on executive board members serving again as political party executives within five years. The Political Party Law nevertheless allowed these executives to run for elected office and hold top government positions. Some, however, believe that a formal finding of improper behavior would seriously harm a party's public image and impede its ability to draw votes, even if reconstituted under new leadership.

IMPOSING THE RETROACTIVE BAN: DAMNED IF YOU DO...

¶17. (C) The retroactive penalty established by the coup leaders -- the loss of voting rights, and ineligibility for elected office -- represents a much more serious threat to the interests of party officials. Because deposed Prime Minister Thaksin was TRT's Party Leader, and many of his top cronies also held positions on the board, applying this sanction would address one of the coup leaders' top concerns by preventing Thaksin's formal return to political life in the short to medium term. The consequences of such a ban would be dramatic and wide-ranging, however.

¶8. (C) Applying a five-year ban to all TRT executive board members would effectively deprive portions of the North and Northeast of some of their best-established leaders, who maintain strong ties to their constituents. Both TRT and the DP also counted among their board members top figures from the Bangkok elite, some of the country's most skilled and sophisticated politicians. If these people -- 119 on TRT's board and 49 from the DP -- are banned from politics, their successors are unclear. Some politicians who served as Prime Minister or kingmaker in the 1990's might fill the void. (Chavalit Yongchayudh, Banharn Silapa-Archa, and Sanoh Thienthong are among those representing old-style politics, while Chuan Leekpai, former DP Party Leader, remains popular with many in his party.)

¶9. (C) Some speculate that the coup leaders would be happy to see a wide swath of established politicians removed from the scene. According to this theory, the coup leaders intend for the Tribunal's ruling to sweep aside potential competitors, clearing the way for a new party that would enable the Council for National Security to perpetuate its hold on power.

¶10. (C) It is far from certain, however, that the disenfranchised politicians would easily accept this fate. The five-year ban would deprive these figures of their livelihood, and of a stake in the political process. If left with no opening to participate directly in politics, their most appealing option would likely be to try bringing the current regime to a quick end. They might choose to foment demonstrations and disorder; promote rejection of the next constitution when it is placed before the public in the upcoming referendum; and/or organize a boycott of whatever election would follow the promulgation of the next constitution. All such measures would be intended to deprive the current regime of legitimacy, create an environment conducive to the quick reversal of its decrees, and pave the way for the early return to political life of the disenfranchised.

... AND DAMNED IF YOU DON'T

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¶11. (C) While the authorities would not relish a no-holds-barred clash with established members of the political elite, they also would regret a Tribunal ruling that appears to clear TRT of malfeasance. This would entail a dramatic loss of face for those who asserted the Thaksin administration was so corrupt as to require a coup d'etat. Thaksin and his allies would claim vindication in their highest-visibility struggle, and many of Thaksin's former allies would be free to begin plotting their return to power through elections. Since a ruling favorable to TRT would be widely seen as presaging a return to influence of TRT figures, it would engender further bureaucratic resistance to the prosecution of Thaksin-era abuses of power.

THE KING'S REMARKS

¶12. (SBU) King Bhumibol -- the greatest living source of moral authority in Thailand -- weighed in on this matter on May 24, addressing a gathering of Supreme Administrative Court justices (three of whom sit on the Constitutional Tribunal). In public remarks, the King encouraged the justices to look critically at the Tribunal's upcoming ruling, noting that some people would be dissatisfied with whatever decision would be made. He warned Thailand was "close to sinking," but he refrained from indicating what sort of Tribunal decision he would favor. He did, however, unambiguously emphasize his lack of control over the Tribunal's verdict, signaling that the Palace ought not to be held responsible for the outcome -- but implying, in the eyes of some observers, that the Palace will support whatever the Tribunal decides.

SECURITY

¶13. (C) Open sources report that the authorities -- who, since the coup, have tended to overreact to reports of potential protests -- have mobilized over 10,000 members of the security forces to maintain order when the Tribunal's rulings are made public. Roadblocks have been established to restrict the movement of demonstrators from the countryside into Bangkok. It is widely expected that large demonstrations will take place if TRT is dissolved, although TRT's leadership has promised to respond peacefully to an adversarial ruling. Septel will report the Embassy's core Emergency Action Committee assessment of security conditions.

COMMENT

¶14. (C) So long as the Constitutional Tribunal's ruling has been pending, uncertainty constrained politicians associated with TRT. Fearful of the coup leaders' influence on the Tribunal, they did not want to antagonize the authorities. They also did not want to waste resources preparing for a political contest from which they might be barred. With the end of ambiguity, though, the vulnerable politicians may quickly focus on preparing for elections, if permitted to compete; if barred, they will either accept their fate meekly or take off the gloves. Once the Tribunal's ruling has been delivered, the CNS will lose a significant source of leverage over its opponents. Whichever way the Tribunal rules, the May 30 decision marks a crucial turning point with important ramifications for the return to elected governance.

BOYCE